

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

) CC Docket 94-158

FCC CC Docket No. 940158)

Amendment of Policies and Rules)

Concerning Operator Service Providers)
and Call Aggregators)

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Comments of National Association of State Telecommunications

Directors Regulatory Action Committee, and State of South Carolina, by the South Carolina
Budget and Control Board Office of Information Resources.

These comments are submitted in response to the Commission's Notice of Proposed Rulemaking and Notice of Inquiry in the above-captioned proceeding by the National Association of State Telecommunications Directors Regulatory Action Committee ("NASTD") and the South Carolina Office of Information Resources of the South Carolina Budget and Control Board ("OIR"), which has responsibility and authority for, and oversight over, the "supply and use" of all South Carolina state government telecommunications systems. Section 1-11-430, S. C. Code Ann. (1989).

NASTD and OIR oppose the proposed rules with respect to the treatment of correctional institutions as call "aggregators." These rules, if adopted, would have an adverse impact on the correctional institutions, and thus the state communications directors, of all fifty states.

NASTD's communications with its members revealed no support for the inclusion of correctional facilities in the definition of aggregator. Responding telecommunication and

correctional officials, without exception, opposed this proposed rule as impractical and burdensome, if not unworkable. Adoption of these rules would foster fraud and other illegal activities. Furthermore, inmates have no need to make emergency calls and the ability to do so would merely create opportunities for pranks calls. Therefore, inmates' phones should be excluded from the requirement that payphones be capable of making 911 emergency calls.

Assigning aggregator status to correctional institutions would probably result in government costs for the equipment and services necessary to control inmate calls. These costs are currently absorbed by the IXC which obtained the institutions' inmate payphone business. This existing single vendor environment has resulted in enhanced security and protections against fraud and abuse, which are expensive to implement. In a multivendor environment, these security costs either would be assumed by the correctional institution, provided by every IXC that offers service in a prison location, or omitted entirely.

The purpose for the Commission's proposed treatment of correctional institutions' inmate payphone service presumably is to address complaints or perceptions of the existing systems' costs to economically disadvantaged families. However, these "financial burdens" may be more apparent than real. For instance, a number of States protect inmates and their families against any excessive charges by requiring the selected providers to set ceilings on their charges -- usually at the carriers' standard rate for long distance calls and any tariffed rates. If the Commission determines that inmates and their families do indeed need protection from high phone bills, it could require something like such ceilings as a more direct, simple, cost effective and tailored remedy, without the burdensome, costly and detrimental side effects of the proposed

indirect solution of "aggregator" status.

The Commission previously has determined that the phone service correctional institutions provide to inmates is unique and distinct from other payphone situations and requires different treatment from aggregators for reasons such as those set forth above. In its April 15, 1991 Report and Order in Docket #90-13, at page 2752, Paragraph #15, the Commission stated

We conclude that the definition of "aggregator" does not apply to correctional institutions in situations in which they provide inmate-only phones. We are persuaded that the provision of such phones to inmates presents an exceptional set of circumstances that warrants their exclusion from the regulation being considered herein. Accordingly, inmate-only phones at correctional institutions will not be subject to any requirements under the Act of the Commission's rule. (Footnotes omitted.)

The Commission was correct in 1991, and nothing has changed which would warrant a reversal of its practice.

Respectfully submitted by

A handwritten signature in cursive script, reading "Ted L. Lightle".

Ted L. Lightle
Chairman, Regulatory Action Committee, National
Association of State Telecommunications Directors and
Director, South Carolina Office of Information Resources
of the South Carolina Budget and Control Board

March 9, 1995